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Serial No.: 10/553,810
Final Office Action Date: 05/18/2009
Advisory Action Date: 08/20/2009

PATENT
PU030125

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicants: BURNETT, Angela Renee, et al.

Examiner: TRAN, My Chau T.

Serial No: 10/553,810

Group Art Unit: 2629

Filed: October 18, 2005

Docket: PU030125

For: LAMP PROTECTION SYSTEM AND METHOD

Mail Stop Appeal Brief-Patents

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Applicants appeal the status of Claims 1–9 as rejected in the Final Office Action dated May 18, 2009 and the Advisory Action dated August 20, 2009, pursuant to the Notice of Appeal filed on September 2, 2009 and submit this appeal brief.

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1. **Real Party in Interest**

The real party in interest is THOMSON LICENSING S.A., the assignee of the entire right title and interest in and to the subject application by virtue of an assignment recorded with the Patent Office on October 18, 2004, at reel/frame 017884/0923.

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2. **Related Appeals and Interferences**

None.

3. **Status of Claims**

Claims 1–9 are pending. Claims 1–9 stand rejected and are under appeal.

A copy of the Claims 1–9 is presented in Section 8 below.

4. Status of Amendments

A response to the Final Office Action of May 18, 2009 was filed, but no amendments were made at that time. Therefore there are no amendments in dispute, and the claims stand as presented in Section 8 below.

5. Summary of Claimed Subject Matter

Independent Claim 1 is directed to “[a] video display system” (Claim 1, preamble).

The subject matter of the first element (beginning with “a lamp”) recited in Claim 1 is described, e.g., at page 2, paragraph [8] and page 3, paragraph [16] of applicants’ original specification and element 105 in FIG. 1.

The subject matter of the second element (beginning with “means for receiving”) recited in Claim 1 is described at page 2, paragraph [8] and, page 3 paragraphs [15–16] of applicants’ original specification. This means is described as being, for example, a control circuit, as shown in FIG. 1 as element 103.

The subject matter of the third element (beginning with “means for maintaining”) recited in Claim 1 is described at page 2, paragraph [8] and page 3 paragraphs [15] and [18] of applicants’ original specification. This means is described as being, for example, a control circuit, as shown in FIG. 1 as element 103.

The subject matter of the fourth element (beginning with “means for receiving a power-on command”) recited in Claim 1 is described at page 2 paragraph [8] and page 3, paragraphs [15 and 18]. This means is described as being, for example, a control circuit shown in FIG. 1 as element 103.

The subject matter of the fifth element (beginning with “means for automatically powering on”) recited in Claim 1 is described at page 2 paragraph [8] and page 3, paragraphs [15] and [18–19]. This means is described as being, for example, a control circuit, as shown in FIG. 1 as element 103.

Independent Claim 6 is directed to “[a] method of powering on a video display system

having a lamp energized to produce an image” (Claim 6, preamble).

The subject matter of the first element (beginning with “maintaining the lamp”) recited in Claim 6 is described at page 2, paragraph [9] and page 3, paragraph [18].

The subject matter of the second element (beginning with “automatically powering on”) recited in Claim 6 is described at page 2, paragraph [9] and page 3, paragraphs [18–19].

Independent Claim 9 is directed to “[a] computer readable medium encoded with a program” (Claim 9).

The subject matter of the first element (beginning with “maintains”) is described, e.g., at page 2, paragraph [10] and page 3, paragraph [18].

The subject matter of the second element (beginning with “automatically powers”) is described at page 2, paragraph [10] and page 3, paragraphs [18–19].

Dependent Claim 2 is directed to the video display system of claim 1. The subject matter of Claim 2 is described, at page 3, paragraph [21]. This means is described as being, for example, an LED.

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1–9 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,136,397 to Miyashita (hereinafter “Miyashita”).

The preceding rejection under 35 U.S.C. § 102(b) is presented for review in this Appeal with respect to Claims 1–9, as argued with respect to independent Claims 1, 6, and 9. The rejection is argued separately with respect to dependent Claim 2.

Regarding the grouping of the claims with respect to the rejection under 35 U.S.C. §102(b) of Claims 1–9, Claims 3–5 stand or fall with Claim 1 and Claims 7–8 stand or fall with Claim 8, due to their respective dependencies. Claim 2 stands with Claim 1, but includes additional patentable subject matter beyond that recited in Claim 1. Claim 9 stands or falls by itself.

7. **Argument**

A. **Introduction**

In general, the present invention is directed to a system and method for protecting a lamp (Applicant's Specification, Title). As disclosed in the Applicant's specification at page 2, lines 4-20:

[0004] In response to a user's command requesting system turn off, some systems display a message asking "Do you really want to turn off the system?" Such systems are useful for avoiding unintentional shutdowns, but do not solve the problem of intentional shutdowns followed shortly by intentional attempts to turn the system on.

[0005] Other prior systems give a false appearance of being turned off but maintain the bulb powered or energized during an interval of, for example, 30 seconds following a power-off command and if the user issues a power-on command before that interval has elapsed, the user does not experience any start-up delay and the television display resumes without having turned off the bulb.

[0006] Certain other prior art systems enforce the lamp cool down period by blinking the Power LED for a few seconds upon receipt of the Power-on command. However, the power-on command is then discarded. This results in frustration to the user because the user has no feedback on the precise duration of the cool down period and must resort to repeated attempts to power-on the television until at last it responds.

Advantageously, the present principles provide a video display system (Claim 1), a method of powering on a video display system (Claim 6), and a computer readable medium (Claim 9) which address the problems of the prior art.

The claims of the pending invention include novel features not shown in the cited references and that have already been pointed out to the Examiner. These features provide

advantages over the prior art and dispense with prior art problems such as those described above with reference to the Applicant's specification.

It is respectfully asserted that independent Claims 1, 6, and 9 are each patentably distinct and non-obvious over the cited references in their own right. For example, the below-identified limitations of independent Claims 1, 6, and 9 are not shown in any of the cited references, either taken singly or in any combination. Moreover, these Claims are distinct from each other in that they are directed to different implementations and/or include different limitations. For example, Claim 1 is directed to a system, while Claim 6 is directed to a method, and Claim 9 is directed to a computer readable medium. Accordingly, each of independent Claims 1, 6, and 9 represent separate features/implementations of the invention that are separately novel and non-obvious with respect to the prior art and to the other claims. As such, independent Claims 1, 6, and 9 are separately patentable and are each presented for review in this appeal.

B. Whether Claims 1–9 are Anticipated Under 35 U.S.C. §102(b) With Respect To U.S. Patent No. 5,136,397 to Miyashita

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Examiner rejected Claims 1–9 as being anticipated by over U.S. Patent No. 5,136,397 to Miyashita (hereinafter “Miyashita”). The Examiner contends that Miyashita shows all the limitations recited in Claims 1–9.

Miyashita is directed to a “liquid crystal video projector having lamp and cooling control and remote optics and picture attribute controls” (Miyashita, Title). In further detail, Miyashita discloses the following in the abstract:

A video projection system having a liquid crystal panel with a video image, a projection lamp with ON/OFF control, a zoom lens with a zoom control mechanism, a focusing lens with a focusing control mechanism, an audio system with a volume control, a projection-lamp light detector, a heat sensor, a variable-speed cooling fan, a control module having a microprocessor and a digital-to-analog converter, a display, a keypad, an alarm/annunciator, a power supply with ON/OFF control, and an infrared based remote control system able to control power ON/OFF, zoom, focus, picture, and sound volume.

As discussed below, the cited references do not disclose or suggest all of the features of Claims 1–9 reproduced herein so that Claims 1–9 should be allowed.

B1. Claims 1–9

Claims 2–5 directly or indirectly depend from independent Claim 1 and Claims 7–8 directly or indirectly depend from independent Claim 6. Thus, Claims 2–5 include all the limitations of Claim 1 and Claims 7–8 include all the limitations of Claim 6.

Further, Claims 1–5 recite, *inter alia*:

means for automatically powering on the lamp at the end of the predetermined cool-down period of time if the power on command is received during the predetermined cool-down period of time.

Further, Claims 6–8 recite, *inter alia*:

automatically powering on the lamp at the end of the cool-down period of time if a power-on command was received during the cool-down period of time.

Moreover, Claim 9 recites, *inter alia*:

automatically powers on the lamp following the cooling down period of time if a power-on signal is received during the cool-down period of time.

In the Final Office Action, the Examiner asserted that Miyashita anticipates this element in col. 9, a discussion pertaining to a restart subroutine. However, contrary to the Examiner's assertions, Miyashita makes no mention whatsoever of receiving a power-on command during a "cool-down" period. The Examiner indicates time delay 194 as representing such a cool-down period.

There is nothing in Miyashita to indicate that this time delay is a cool-down period. Miyashita explicitly discusses cooling the lamp elsewhere, wherein the lamp waits *until a specific temperature has been reached*. See, e.g., FIGS. 15A and B. The time delay 194 is not in any way referred to as a cool-down period or as way related to temperature. It is only the Examiner's characterization which labels the time delay as such. Given that Miyashita does not hesitate to refer to temperature and cooling elsewhere, it seems evident that Miyashita did not consider the time delay 194 as being a cool-down period. This conclusion is reinforced by the language of claim 1 which recites a *predetermined* cool-down period of time. There is no way of knowing in advance how long it will take a lamp to cool to a particular temperature — environmental effects make the delay essentially random. As such, it is wholly inappropriate to treat Miyashita's cooling as representing a cool-down period of time.

The Examiner responded to this argument in the Advisory Action. The Examiner states, “Here, the time delay time of Miyashita is disclosed by Miyashita is when the lamp is off such that the delay time of Miyashita would read on the limitation of ‘maintaining the lamp in an off-condition during a predetermined cool-down period of time following the receipt of the power-off command’....” This response does not address the question of whether Miyashita discloses powering on the lamp at the end of a cool-down *period of time*. Applicants’ claims recite that a certain condition must be reached before powering on the lamp: An amount of time must pass. Miyashita discloses an entirely different condition: A certain temperature must be reached. The present claims *explicitly* recite that the criterion for powering on the lamp is a *period of time*. The Examiner seems to contend that, simply because cooling down takes time, it is reasonable to interpret a condition based in temperature as reading on a condition based in time. MPEP § 2131 states, “To anticipate a claim, the reference must teach every element of the claim.” It is respectfully asserted that Miyashita fails to meet this standard, as it neither discloses nor suggests such a period of time.

Furthermore, even assuming, *arguendo*, that Miyashita’s time delay 194 could be interpreted as a cool-down period, Miyashita does not describe any reaction to input received during that period. The claims recite “if a power-on command is received during the cool-down period.” The Examiner asserts that this is shown in Miyashita’s restart subroutine. The Examiner goes on to state in the Advisory Action, “Miyashita disclose that after the time delay step there is a step in which the lamp is turn-on. This disclosure suggests that there is a power-on command during the time delay step....” The Examiner points to the time delay 194 shown in FIG. 14 as representing the cool-down time period.

The Examiner's assertion does not reflect the actual disclosure of Miyashita. In particular, Miyashita neither discloses nor suggests receiving a power-on command during the time delay 194. Bear in mind that the process of FIG. 14 is a *restart* subroutine. It follows that, if Miyashita's device is anywhere in the restart subroutine, it has already received the command to restart. In other words, there is no indication whatsoever that the device receives a power-on command during the time delay step 194. Nowhere in the cited portion of Miyashita, nor indeed anywhere else in the reference, does Miyashita disclose or suggest powering on the lamp at the end of a cool-down period *if a power-on command was received during the cool-down period*.

For at least the above reasons, it is respectfully asserted that Miyashita fails to disclose or suggest automatically powering on the lamp at the end of the cool-down period of time if the power on command is received during the predetermined cool-down period of time. As such, Miyashita fails to teach or suggest the above-recited limitations of Claims 1–9.

Accordingly, Claims 1–9 are patentably distinct and non-obvious over Miyashita for at least the reasons set forth above. Therefore, withdrawal of the rejection and allowance of Claims 1–9 is earnestly requested.

B2. Claim 2

Claim 2 depends from independent Claim 1. Thus, Claim 2 includes all the limitations of Claim 1.

Further, it is also respectfully pointed out that Claim 2 recites, *inter alia*:

The video display system of claim 1 having means for signaling receipt of a power-on command during the cool-down period of time.

The Examiner asserts that Miyashita discloses this element in its restart subroutine, shown in FIG. 14. However, because Miyashita does not disclose or suggest a cool-down period of time and does not disclose or suggest receiving a power-on command during such a cool-down period, as discussed above in section B1, Miyashita necessarily cannot disclose or suggest signaling the receipt of such a power-on command.

The Examiner responded to this argument in the Advisory Action, by pointing to the flashing of an LED in steps 192 and 201 of FIG. 14. The Examiner asserts that these flashes in some fashion represent a means for signaling receipt of a power-on command. However, as noted above, Miyashita does not in any way teach or suggest receiving a power-on command during its restart subroutine. Furthermore, even if such a command *were* received during the time delay 194, the flashing LEDs occur at specified points in the subroutine, whether such a command is received or not. The reference does not disclose or suggest that the LEDs are responsive to any input whatsoever, and concordantly fails to disclose or suggest signaling receipt of a power-on command.

Accordingly, Claim 2 is patentably distinct and non-obvious over Miyashita for at least the reasons set forth above and discussed in section B1. Therefore, withdrawal of the rejection and allowance of Claim 2 is earnestly requested.

C. Conclusion

At least the above-identified limitations of the pending claims are not disclosed or suggested by the teachings of the cited references. Accordingly, it is respectfully requested that the Board reverse the rejections of Claim 1-9 under 35 U.S.C. §102(b).

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Respectfully submitted,

BY: /Robert B. Levy/
Robert B. Levy, Attorney for Applicant
Registration No.: 28,234
Telephone No.: (609) 734-6820

Thomson Licensing LLC
Patent Operations
P.O. Box 5312
Princeton, NJ 08543-5312

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8. CLAIMS APPENDIX

1. (Previously presented) A video display system comprising
a lamp which is energized to produce an image,
means for receiving a power-off command,
means for maintaining the lamp in an off-condition during a predetermined cool-down
period of time following receipt of the power-off command,
means for receiving a power-on command during the predetermined cool-down period of
time, and
means for automatically powering on the lamp at the end of the predetermined cool-down
period of time if the power-on command is received during the predetermined cool-down period
of time.
2. (Previously presented) The video display system of claim 1 having means for signaling
receipt of a power-on command during the cool-down period of time.
3. (Previously presented) The video display system of claim 1 having a power light emitting
diode (LED) and means for blinking the power LED for the remainder of the cool-down period
of time upon receipt of a power-on command during the cool-down period of time.
4. (Previously presented) The video display system of claim 1 wherein the means for
maintaining the lamp in an off condition during the cool-down period of time comprises a timer.

5. (Previously presented) The video display system of claim 1 wherein the means for maintaining the lamp in an off condition during the cool-down period of time comprises a counter.

6. (Previously presented) A method of powering on a video display system having a lamp energized to produce an image comprising the steps of

(a) maintaining the lamp in an off condition during a predetermined cool-down period of time following receipt of a power-off command and

(b) automatically powering on the lamp at the end of the cool-down period of time if a power-on command was received during the cool-down period of time.

7. (Previously presented) The method of claim 6 further comprising the step of signaling receipt of a power-on command during the cool-down period of time.

8. (Previously presented) The method of claim 6 further comprising the step of blinking an indicator for the remainder of the cool-down period of time following receipt of a power-on command during the cool-down period of time.

9. (Previously presented) A computer readable medium encoded with a program which when executed by a processor maintains a lamp in an off condition during a cool down period of time and automatically powers on the lamp following the cooling down period of time if a power-on signal is received during the cool-down period of time.

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9. **RELATED EVIDENCE APPENDIX**

None.

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10. **RELATED PROCEEDINGS APPENDIX**

None